

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TYLER PALMER,

Defendant.

8:18-CR-19

ORDER

The defendant has filed a motion to reduce sentence ([filing 47](#)) based on U.S.S.G. § Amend. 817 and the statutory "safety valve," 18 U.S.C. § 3553(f). That motion will be denied.

The defendant points out that Amendment 817 altered the eligibility for the "safety valve," U.S.S.G. § 5C1.2, and also changed U.S.S.G. § 2D1.1 (a)(1) and (3), which set the base offense level for controlled substance offenses when the defendant has a prior conviction for a felony drug offense *and* death or serious bodily injury resulted from the offense of conviction. [Filing 47](#). This, he says, makes him "eligible for the Sentence Reduction for the prior offences [sic] that trigger enhanced sentence for 21 USC 841(b)." [Filing 47](#).

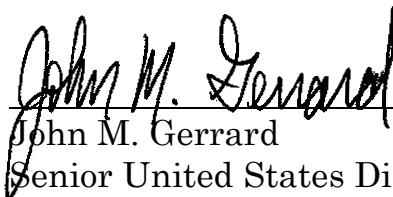
There are several problems with the defendant's argument. The first is that Amendment 817 was only effective on November 1, 2023, and wasn't made retroactive. *See* U.S.S.G. § 1B1.10. The second is that nothing in Amendment 817 applies to the defendant. The defendant's base offense level was 26, and wasn't based on § 2D1.1(a)(1) or (3) because there's nothing to suggest his offense resulted in a serious bodily injury. *See filing 38*. And the defendant wouldn't be eligible for even the amended safety valve, for several reasons: He had 12 criminal history points (with only one 1-point offense), he had several

prior 3-point offenses, he possessed a firearm in connection with the offense, and there's no evidence he provided information to the government. [Filing 38 at 8-13](#); *see also* § 3553(f); *Pulsifer v. United States*, 144 S. Ct. 718 (2024). Finally, because the defendant isn't safety-valve eligible, there's no reducing his sentence below the statutory mandatory minimum he received. *See filing 42; filing 43*. Accordingly,

IT IS ORDERED that the defendant's motion to reduce sentence ([filing 47](#)) is denied.

Dated this 5th day of April, 2024.

BY THE COURT:



John M. Gerrard
Senior United States District Judge